

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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DONALD C. HUTCHINS

Plaintiff

v.

CARDIAC SCIENCE, INC.

Defendant

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Civil Action: 04-30126-MAP

**DEFENDANT COMPLIENT CORPORATION’S MEMORANDUM IN OPPOSITION  
TO PLAINTIFF’S “MOTION TO STRIKE STATEMENTS OF  
ATTORNEY COLLEEN MORAN O’NEIL”**

Plaintiff, Donald C. Hutchins (“Plaintiff”), recently filed a “Motion to Strike Statements of Attorney Colleen Moran O’Neil” (the “Motion”), asking the Court to disregard unspecified statements of Complient’s counsel at the January 4, 2006 hearing of all motions pending. Complient respectfully requests that the Motion be denied.

Hutchins’ Motion does not specify what statements of Attorney O’Neil he seeks to have the Court disregard. Moreover, the alleged basis for Hutchins’ Motion is entirely incorrect. Specifically, Hutchins claims that some or all of Attorney O’Neil’s statements at the hearing should be disregarded due to an alleged conflict of interest on the part of Calfee, Halter & Griswold, L.L.P., Complient’s counsel in this matter; however, Hutchins already waged, and lost, this claim. See Hutchins’ Motion to Deny Attorneys Employed by the Law Firm of Calfee, Halter & Griswold, LLP to Appear *Pro Hac Vice*, filed on November 23, 2004.

Further, Hutchins claims that Attorney O'Neil failed to acknowledge Calfee Halter's status as a stockholder of Compliant and, also, that the "CPR Prompt® product line is registered as the property of Compliant Corporation by the official record of the State of Ohio." See Hutchins' Motion at 2. Given that Attorney O'Neil was not asked to acknowledge or address either issue at the January 4, 2006 hearing, these arguments are nonsense. Even if these arguments had any basis in fact, they still do not change the fact that Compliant is entitled to summary judgment as a matter of law on Hutchins' claims and Compliant's counterclaims.

Accordingly, Compliant respectfully requests that Hutchins' "Motion to Strike Statements of Attorney Colleen Moran O'Neil" be denied in its entirety.

Respectfully submitted,

/s/ John J. Egan  
JOHN J. EGAN (151680)  
EGAN, FLANAGAN & COHEN, P.C.  
PO Box 9035  
67 Market Street  
Springfield, MA 01102-9035  
(413) 737-0260  
FAX (413) 737-0121

WILLIAM E. COUGHLIN (0010874)  
COLLEEN MORAN O'NEIL (0066576)  
CALFEE, HALTER & GRISWOLD LLP  
1400 McDonald Investment Center  
800 Superior Avenue  
Cleveland, Ohio 44114  
(216) 622-8200  
(216) 241-0816 (facsimile)

Attorneys for Compliant Corporation

**CERTIFICATE OF SERVICE**

A copy of the foregoing Defendant Compliant Corporation's Memorandum in Opposition to Plaintiff's "Motion to Strike Statements of Attorney Colleen Moran O'Neil" is being served by operation of the Court's electronic filing system and First Class United States Mail this 17th day of January, 2006, upon:

Donald C. Hutchins  
1047 Longmeadow Street  
Longmeadow, Massachusetts 01106

Paul H. Rothschild, Esq.  
Bacon & Wilson, P.C.  
33 State Street  
Springfield, MA 01103

And

Randall T. Skaar, Esq.  
Scott G. Ulbrich  
Patterson, Thunte, Skaar & Christensen, P.A.  
4800 IDS Center  
80 South 8th Street  
Minneapolis, MN 55402-2100

Attorneys for Defendant Cardiac Science, Inc.

\_\_\_\_\_/s/ John J. Egan\_\_\_\_\_  
One of the attorneys for Compliant  
Corporation